

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on Proprietary Education
(Amendment)

791 KAR 1:025. Fees.

RELATES TO: KRS 165A.350(3), 165A.360(1), (2), (9), 165A.380, 165A.420

STATUTORY AUTHORITY: KRS 165A.340(6), (10), 165A.390, 165A.400, 165A.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.340(6) and (10), 165A.400, and 165A.450 authorize the commission to promulgate administrative regulations to administer and enforce the provisions of KRS Chapter 165A, including establishment of fees and other charges. This administrative regulation establishes the fees for the Kentucky Commission on Proprietary Education.

Section 1. Definitions. (1) "Actual cost" means the amount sufficient to reimburse the commission for all travel and expenses incurred, including the expense of contract labor, consultant fees, or other miscellaneous expenses necessitated by a site visit or inspection.

(2) "Gross revenue" means the total amount of tuition earned by a school less any tuition refunds to the students during the immediate past school year, July 1 through June 30.

(3) "Transfer of ownership" means any change or transfer in ownership whether or not the change results in a change of control.

Section 2. Initial Licensure Fee and Student Protection Fund Contribution. (1) The fee for initial licensure as a school residing in and doing business in Kentucky shall be \$500.

(2) The initial contribution to the student protection fund for a school residing in and doing business in Kentucky shall be \$500.

(3) The fee for initial licensure as a school not residing in Kentucky, but doing business in Kentucky, shall be \$1,250.

(4) The initial contribution to the student protection fund for a school not residing in Kentucky, but doing business in Kentucky, shall be \$1,250.

(5) At any time the balance in the student protection fund falls below \$500,000, each licensed school shall make an additional contribution to the fund. The amount of the additional contribution shall be determined by the commission pursuant to KRS 165A.450(2)(a) and (b). The commission shall calculate the amount due per school, pursuant to Section 3(1) and (2) of this administrative regulation, and shall use a percentage appropriate to replenish the fund. The additional contribution shall be paid on a quarterly basis until the fund is replenished.

(6) For initial and annual renewal license application fees for resident and non-resident commercial driver license training schools refer to 791 KAR 1:050; 791 KAR 1:060; and, 791 KAR 1:070.

Section 3. Annual Renewal License Fee for Schools. (1)(a) Except as provided in paragraph (b) of this subsection, the annual renewal license fee for a school residing in and doing business in Kentucky shall be \$500.

(b) If the school's gross revenue exceeds \$50,000, the annual renewal license fee for a school residing in and doing business in Kentucky shall be \$500 plus twenty-five (25) dollars for each additional \$10,000 of gross revenue in excess of \$50,000, not to exceed \$3,000.

(2)(a) Except as provided in paragraph (b) of this subsection, the annual renewal license fee for a school not residing in Kentucky, but doing business in Kentucky, shall be \$1,250.

(b) If the school's gross revenue exceeds \$50,000, the annual license fee for a school not residing in Kentucky, but doing business in Kentucky, shall be \$1,250 plus twenty-five (25) dollars for each additional \$10,000 of gross revenue for Kentucky residents in excess of \$50,000, not to exceed \$3,000.

(3) Late fees for a resident or nonresident school's annual renewal license shall be:

(a) Ten (10) percent of the total application fee if received after the due date, May 15, up to and including the fifth business day;

(b) Twenty (20) percent of the total application fee if received after the fifth business day, up to and including the tenth business day;

(c) Thirty (30) percent of the total application fee if received after the tenth business day, up to and including the fifteenth business day;

(d) Forty (40) percent of the total application fee if received after the fifteenth business day, up to and including the twentieth business day;

(e) Fifty (50) percent of the total application fee if received after the twentieth business day, up to and including the twenty-fifth business day;

(f) Seventy-five (75) percent of the total application fee if received after the twenty-fifth business day, up to and including the thirtieth business day; and

(g) 100 percent of the total application fee if received after the thirtieth business day.

Section 4. Annual Permit Fees for Agents. The annual permit fee for each agent working for a school licensed by the commission shall be \$175.

Section 5. Transfer of Ownership of a School. The fee for recording a transfer of ownership of a school licensed by the commission shall be \$500.

Section 6. Change of Name of a School. The fee for approval of a change of name of a school shall be \$150.

Section 7. Change of location of a school. The fee for approval of a change of location of a school shall be \$500.

Section 8. Application to Award an Associate Degree. The fee for an application to award an associate degree shall be \$750 per degree.

Section 9. New Program. The fee to apply for a new certificate or diploma program shall be \$200.

Section 10. Program Revisions. ~~[Certificate, Diploma, and Degree.]~~ (1) The fee to apply for approval to revise twenty-five (25) percent or more of any existing program shall be \$200.

(2) The fee to apply for approval to revise less than twenty-five (25) percent of any program shall be \$100.

Section 11. Transcript Requests from a Closed School. The fee for requesting a transcript from a closed school shall be five (5) dollars.

Section 12. Cost of site visits. (1) Costs connected with a site visit conducted in accordance with KRS 165A.370(1) and (2), such as travel, meals, lodging, and consultant honoraria, shall be paid by the school.

(2) The estimated cost of the site visit shall be paid by the school prior to the site visit.

- (3) The final settlement regarding actual expenses incurred shall be paid by the school no later than thirty (30) days after receipt of the invoice.
- (4) Failure to pay these costs shall be grounds for:
 - (a) Denial of a license; or
 - (b) Suspension or revocation of an existing license.
- (5) This section shall not apply to visits conducted in accordance with KRS 165A.475(3) and (4).

Section 13. Proration or Refund of Fees and Contributions. A fee paid to the commission or contribution to the student protection fund shall not be prorated or refunded.

Section 14. Penalties. A school shall have a license suspended or revoked, be directed to take specific corrective actions, or submit to additional inspections, with and without notice for failure to pay fees or contribute to the student protection fund in accordance with this administrative regulation.

MISTY N. EDWARDS, Executive Director

For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email kcpe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation (791 KAR 1:025) establishes fees and other charges. There is no change to the fee structure.
 - (b) The necessity of this administrative regulation: This administrative regulation (791 KAR 1:025) authorizes the commission to promulgate administrative regulation to administer the provisions of KRS Chapter 165A, including establishment of fees and other charges.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: The statute requires the commission to promulgate regulations regarding fees and other charges.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides a fee structure.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment simply addresses the location of the fee structure for initial and annual resident and non-resident commercial driver license training schools.

(b) The necessity of the amendment to this administrative regulation: All proprietary schools will use the electronic data management system. The amendment simply addresses the location of the fee structure for initial and annual renewal license application fees for resident and non-resident commercial driver license training schools.

(c) How the amendment conforms to the content of the authorizing statutes: The statute requires the commission to promulgate regulations regarding fees and other charges.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide essential fee guidance to initial and annual renewal resident and non-resident commercial driver license training schools.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Commission on Proprietary Education, the 189 licensed proprietary schools, and any proprietary school requiring licensure pursuant to KRS 165A.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: All proprietary schools will be required to utilize the electronic data management system. The amendment simply addresses the location of the fee structure for initial and annual renewal license application fees for resident and non-resident commercial driver license training schools.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendments.

(c) As a result of compliance, what benefits will accrue to the entities: The fee structure is primarily consolidated to 791 KAR 1:025. This amendment makes the fee structure more discoverable.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis: There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied? Tiering is not applied because there is no change to the fee or application structure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 165A, KRS 165A.340(6), (10), 165A.390, 165A.400, 165A.450.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no fiscal impact associated with this amendment.